

### **REMARKS**

This application has been reviewed in light of the Office Action dated April 2, 2008. Claims 36 and 38-45 are withdrawn from consideration. Claims 22, 24, 25, 31, and 56-72 are presented for examination, of which Claims 22, 24, 31, 56, and 57 are in independent form. Favorable reconsideration is requested.

Initially, Applicants note that the Examiner did not indicate that the references cited in the Information Disclosure Statements (“IDSs”) of March 7, 2001, March 13, 2003, and August 23, 2007, have been considered. Copies of the IDSs of March 7, 2001 and March 13, 2003 were resubmitted to the Office on August 26, 2005. Applicants respectfully request the Examiner to consider the references cited in the IDSs and to indicate consideration of the references by initialing and signing the PTO-1449 form attached to each IDS.

The Office Action rejected Claims 22, 24, 25, 31, and 56-72 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,163,771 (*Walker et al.*), in view of U.S. Patent Application Publication No. 2003/0028481 (*Flitcroft et al.*), in view of U.S. Patent Application Publication No. 2003/0115126 (*Pitroda*), and further in view of U.S. Patent Application Publication No. 2001/0034720 (*Armes*). Applicants respectfully traverse these rejections.

On page 5, the Office Action states that “Applicants arguments filed on January 14, 2008 have been fully considered [however,] [t]he amended claims are rejected in view of newly discovered reference Armes (US Patent Application Publication 2001/0034720).”

Applicants respectfully submit that *Armes* is not available as prior art against the present application.

*Armes* is the publication of U.S. Patent Application serial number 09/800,461, which is the serial number of the present U.S. Patent Application by Applicants. Accordingly, the priority date of the *Armes* publication is the same as the priority date of the present application. Thus, *Armes* is not available as prior art against the present application under any subsection of 35 U.S.C. § 102 and/or 35 U.S.C. § 103(a). For at least this reason, Applicants respectfully request withdrawal of the rejection under 35 U.S.C § 103(a).

The Office Action of July 26, 2007 indicated that previously pending Claim 33 was allowable over the Office's proposed combination of *Walker et al.*, *Flitcroft et al.*, and *Pitroda*. As discussed in Applicants' previous Amendment of December 26, 2007, Applicants amended independent Claim 31 to include the features of Claim 33 and intervening Claim 32. Accordingly, Applicants respectfully submit that Claim 31 is allowable.

Furthermore, in the Amendment of December 26, 2007, Applicants also amended independent Claims 22, 24, 56, and 57 to include features similar to those found in amended Claim 31. Accordingly, Applicants submit that Claims 22, 24, 56, and 57 are patentable over the proposed combination of *Walker et al.*, *Flitcroft et al.*, and *Pitroda*, even if deemed legally permissible or technically feasible, and respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a).

The other rejected claims in this application depend from one or another of the independent claims discussed above and, therefore, are submitted to be patentable for at least the

same reasons. Because each dependent claim also is deemed to define an additional aspect of the invention, individual consideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

No petition to extend the time for response to the Office Action is deemed necessary for this Amendment. If, however, such a petition is required to make this Amendment timely filed, then this paper should be considered such a petition and the Commissioner is authorized to charge the requisite petition fee to Deposit Account 50-3939.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

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